

WORK OPPORTUNITY AND WELFARE-TO-WORK TAX CREDITS Employer Guide

The Employment Development Department (EDD) is the Work Opportunity and Welfare-to-Work Tax Credit certifying agency for California employers.

The Purpose of the Work Opportunity and Welfare-to-Work Tax Credits (WOTC)

The Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) extends the Work Opportunity Tax Credit (WOTC) to December 31, 2001. The WOTC, which includes the Welfare-to-Work Tax Credit, has two purposes:

- To promote the hiring of individuals who qualify as a member of a target group.
- To provide a federal tax credit to employers who hire these individuals.

When you hire an individual who meets the criteria for this program, you may be able to claim federal tax credits against wages paid.

Target Groups that Qualify for the WOTC

Individuals who are in one of the following nine target groups may qualify an employer for the WOTC:

- Qualified recipients of Aid to Families with Dependent Children (AFDC).
- Qualified veterans receiving Food Stamps.
- Qualified economically disadvantaged ex-felons hired no later than one year after conviction or release from prison.
- High-risk youth ages 18 through 24 who reside in a federally designated Empowerment Zone or Enterprise Community.
- Vocational rehabilitation referrals.
- Qualified summer youth ages 16 through 17 who reside in a federally designated Empowerment Zone or Enterprise Community.
- Qualified Food Stamp recipients ages 18 through 24.
- Qualified recipients of Supplemental Security Income (SSI).
- Long-term recipients of AFDC.

Welfare-to-Work Tax Credit

Individuals who are long-term recipients of AFDC (target group I) and begin work on or after January 1, 1998, may qualify an employer for the Welfare-to-Work Tax Credit portion of the WOTC.

Federal Tax Credit Amounts and Retention Periods for Target Groups A through H

The employee must be retained 400 hours for a 40 percent tax credit on qualified first year wages up to \$6,000. For the employee that is retained at least 120 hours but less than 400 hours a 25 percent credit is available on qualified first year wages up to \$6,000. The exception is qualified summer youth (target group F). The tax credit is based on qualified first year wages up to \$3,000.

Federal Tax Credit Amounts and Retention Period for Target Group I

Long-term recipients of AFDC (target group I) provides for a tax credit of 35 percent on qualified first year wages up to \$10,000 and 50 percent on second year qualified wages up to \$10,000. The employee must be retained a minimum of 180 days or 400 hours. Because the Welfare-to-Work Tax Credit is coordinated with the WOTC the employer cannot claim both credits in any one taxable year with respect to the same individual. If the individual is certified as both a member of one of the WOTC target groups and a long-term AFDC recipient, the employer would be able to claim either the 40 percent of \$6,000 tax credit or the 35 percent of \$10,000 tax credit.

Applicable Tax Years, Carry Back, and Carry Forward

Employers may claim the Work Opportunity Tax Credit or the Welfare-to-Work Tax Credit for a total of two years. Employers who do not take the full credit amount of the Work Opportunity Tax Credit and the Welfare-to-Work Tax Credit because of the tax liability limitation may carry back the unused credit one year and carry forward the unused credit 20 years or until all the credit is used, whichever comes first.

Designating a WOTC Agent

If you wish to authorize an intermediary, such as an accountancy firm or a management consultant, to act on your behalf in the WOTC Certification process, you must provide to the EDD a notarized Power-of-Attorney. The Internal Revenue Service (IRS) Form 2848, Power-of-Attorney and Declaration of Employer Representative, may be used for this purpose. An acceptable equivalent document, is the EDD Tax Branch Form DE 48, Power of Attorney.

Determining Eligibility

You must first determine if the applicant is willing to provide the required information. Prospective employees are not required to provide information of this sort to an employer. Their participation must be voluntary. If the applicant is willing to provide the required information, have him/her complete the **Individual Characteristics Form, Work Opportunity Tax Credit and Welfare-to-Work Tax Credit, ETA 9061**. The **Individual Characteristics Form, ETA 9061** must be completed on or before the applicant is offered employment.

Requesting Certification

If you believe, based on the information provided on the **Individual Characteristics Form, ETA 9061**, that the job applicant meets the requirements for one or more target groups, **complete all items on the Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits, Form 8850**.

If the applicant has a **Conditional Certification, Work Opportunity Tax Credit and Welfare-to-Work Tax Credit, ETA 9062**, eligibility has already been determined by the EDD or a participating agency. You **do not** have to complete the **Individual Characteristics Form, ETA 9061**. Complete the employer portion of the **Conditional Certification, ETA 9062** and submit it with the **Form 8850**.

Time Frame for Submitting the Form 8850

All such notices must be completed and signed under penalty of perjury by both the employer and applicant **ON OR BEFORE THE APPLICANT IS OFFERED EMPLOYMENT** and must indicate the applicant's eligibility for a target group(s). The **Form 8850** must contain the

employer's name and Federal Tax Identification number, and the name, social security number, employment hire date and start date of the applicant for whom certification is requested. It must be submitted to the EDD **NO LATER THAN THE 21ST DAY AFTER THE APPLICANT STARTS WORK**. Do **not** delay sending in the **Form 8850**.

The **Form 8850**, with the **ETA 9061**, or the **ETA 9062** attached, will serve as your request for a WOTC Certification and must not show any evidence of tampering with the applicant's responses.

Mail forms to:

WOTC Center
P.O. Box 1408
Roseville, Ca 95661

The WOTC Certification

If the applicant meets all the criteria, the WOTC Center will send you a Work Opportunity and Welfare-to-Work Tax Credit Certification, DE 8727. If the Form 8850 is timely but incomplete, the WOTC Center will notify you by mail and request the additional information necessary for making the WOTC eligibility determination. Otherwise, the WOTC Center will send you a letter denying your request for Certification and stating the reasons for the denial.

Records Retention

The WOTC records, including application, pertinent forms and supporting documentation, should be retained by the employer for five (5) years from the date of the written Certification from the EDD. Revoked or denied Certifications must be retained for at least one year, but longer if further action or an appeal is pending. This time period conforms to the IRS "record retention required" for employment taxes, which specifies that records be kept for four (4) years after employment taxes are due.

Requesting Assistance

For more information on WOTC, contact the WOTC Center at (916) 774-4374 or go to the WOTC website on the Internet at:

<http://www.edd.cahwnet.gov/wotcind.htm>.

Forms are available through the Internet and your local EDD Job Service site.

Questions regarding how to claim the Work Opportunity Tax Credit on your federal income tax return should be directed to your regional office of the IRS.

Penalties and Reviews

There are some possible perjury penalties for misrepresentation. The law provides for a fine and/or imprisonment for making false statements or withholding facts. In addition, the EDD is required to take corrective action as appropriate for those employers or employees who misrepresent information on the WOTC forms. These actions may include, but are not limited to:

- Criminal action for perjury violations.
- Expansion of the eligibility audit for additional Certifications issued to an employer.

- Increased documentation required for employers with high incidence of revoked Certifications.

The EDD will perform monthly reviews of ten percent of the Certifications issued in the previous 30 days to verify WOTC eligibility of the employees claimed on the Certifications. All Certifications found to be invalid will be revoked. A notice of invalidation will be sent to the employer and the local regional office of the IRS explaining the reason for revocation.

Federal Empowerment Zones and Enterprise Communities

Federal Empowerment Zone and Enterprise Community refers to an area or combination of areas meeting certain population, size and poverty criteria. These areas can be characterized as having pervasive poverty, unemployment and general distress.

California has one Empowerment Zone, four urban and two rural Enterprise Communities. The Empowerment Zone is in Los Angeles. The four urban Enterprise Communities are in:

- Los Angeles-South Central/Huntington Park
- Oakland
- San Diego
- San Francisco

The two rural Enterprise Communities are in:

- Imperial County
- Watsonville City and Santa Cruz County

Because only certain census tracts within a zip code area are in an Empowerment Zone (EZ) or Enterprise Community (EC), not every summer or high-risk youth who resides in the areas indicated above are eligible for WOTC Certification. To verify an applicant's address to ensure that his/her residence is in the Empowerment Zone or Enterprise Community, you may enter the individual's address on the EZ/EC website at:

<http://www.ezec.gov>.

The system will check the address and confirm whether it is in an Empowerment Zone or Enterprise Community. You may also link to the EZ/EC website through the EDD WOTC website.

If you do not have Internet connectivity, you may contact the Department of Housing and Urban Development (HUD) Information Center at 1-800-998-9999, and they will check the address for you.

EDD is an equal opportunity employer/program. Special requests for alternate formats need to be made by calling the phone number of your local EDD office (listed in the phone directory under "State of California, Employment Development Department").